

### **REMARKS**

Favorable reconsideration of this application as presently amended is respectfully requested. Claims 1-18 are pending. In this Amendment, claims 1 through 4 are amended and claims 9 through 18 have been added. No new matter is added.

Support for the amendments to claim 1 are found in originally filed claim 6, as well as elsewhere in the originally filed specification, drawings, and claims. Support for the amendments to claim 4 are found in originally filed claims 1, 2 and 3, as well as elsewhere in the originally filed specification, drawings, and claims. Support for claim 9 is found from originally filed claim 4. Support claims 10 through 18 may be found from the originally filed claims, as well as elsewhere in the originally filed specification, drawings, and claims.

The Examiner is thanked for indicating that claim 4 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph and to include all of the limitations of the base claim and any intervening claims. Claim 4 has been amended in this manner.

Claims 1 through 3 are rejected under 35 U.S.C. § 112, second paragraph. These claims have been amended to further clarify the present invention. No new matter has been added by these amendments.

Claims 1 through 3 and 5 through 8 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,906,635 to Maniglia. This rejection is respectfully traversed with respect to the claims as currently presented.

Claim 1 has been amended to require “said electrical communication **being contained in** a flexible connection between said protective housing and said protective casing.” Basis for this amendment may be found *inter alia* on page 3, line 24 of the Specification. The prior art reference does teach a flexible connection, *i.e.*, slot 43, screw 62 and nut, but does not provide any teaching or suggestion of electrical communication being contained in the flexible connection. In fact, the prior art reference teaches that the

electrical connection is disposed in titanium arm 55. Thus, it is not possible for this arm to be flexible. Therefore, Maniglia cannot teach or suggest the electrical communication being contained in a flexible connection as claimed in claim 1, and therefore, claim 1 as amended is patentable over Maniglia.

Claims 5 through 8 as amended depend directly or indirectly from claim 1, and, accordingly, include all of the patentable features of claim 4 as well as other patentable features. Therefore, claims 5 through 8 are patentable over Maniglia for at least the reasons discussed above with respect to claim 1.

Independent claim 10 has been added to further clarify the flexible relationship between the two housings. As may be seen, claim 10 requires that the “flexible connection is provided between and **directly attached** to said protective housing and said protective casing.” Basis for this claim may be found from original claim 1 and figure 2 of the present application. As may be seen, in the prior art figures 1, 3 through 5, 7 and 8, the **direct** attachment of package 74 to antenna 54 is via titanium shaft 55. This shaft is incapable of being flexible.

The Office Action points out that slot 43, screw 62 and bolt (illustrated in Figure 5) is relied upon to show this flexible feature. The Examiner is requested to show where in the prior art reference it is explicitly discussed that bolt is allowed to remain loose after insertion into the patient, since the Examiner has provided no basis for asserting that such features are well known in devices similar to the Maniglia device. Accordingly, under 37 CFR § 1.104(d)(2), the Applicant hereby requests that the Examiner provide an affidavit supporting the Examiner’s assertions used as a basis for this rejection.

Finally, claim 10 requires that the flexible connection is provided by an element that directly attaches the protective housing and casing. The slot, screw and bolt attachment taught in Maniglia fail to meet this claim requirement.

Claims 11 through 18 as amended depend directly or indirectly from claim 10, and, accordingly, include all of the patentable features of claim 10 as well as other patentable

features. Therefore, claims 11 through 18 are patentable over Maniglia for at least the reasons discussed above with respect to claim 10.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance, and favorable action is respectfully solicited.

Respectfully submitted,



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April 21, 2004